

Discussion Draft

Three Year Plan for Implementing the
Massachusetts Oil Spill Prevention and Response
Act

July 2008 – July 2011

June 17, 2008

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Introduction

The Massachusetts Oil Spill Prevention and Response Act (OSA) became law on August 4, 2004. A key provision of the OSA established a trust fund, financed primarily by a \$ 0.02/barrel fee on petroleum products delivered to marine terminals in the state. The trust fund is to be used by the Massachusetts Department of Environmental Protection (MassDEP) to improve protection of the Massachusetts coastline from oil spills through spill prevention and response efforts that may include: improvements to vessel navigational systems and infrastructure; development of spill response plans for local, regional, and/or state responders; procurement and maintenance of spill response equipment and supplies for local, regional, and/or state responders; development and implementation of spill response training; spill prevention/response research efforts; and interest-free emergency loans and damage claims.

To assist MassDEP in effectively managing the use of the Trust Fund, the Oil Spill Act Advisory Committee (OSAAC) was appointed in early 2007 and has met regularly since then. Subcommittees on Prevention and Training have also been formed to focus on these topics.

The OSAAC advises the MassDEP on:

- approaches, actions, programs, systems, and procedures to implement the OSA in a manner that optimizes the integration and effectiveness of local, regional, state, inter-state, federal, and private-sector spill-response assets;
- apportioning available funds among prevention, response, and other priorities; and
- other technical and/or policy issues that arise in the course of implementing OSA.

Please refer to Attachment D for a list of current OSAAC members.

The MassDEP has initiated various activities to implement the OSA since the law was enacted. These activities include:

- developing an Interim Plan for Implementing the Massachusetts Oil Spill Prevention and Response Act;
- developing Geographic Response Plans (GRP's) for protecting coastal resources in Buzzards Bay and Cape Cod and the Islands;
- procuring oil spill protection and cleanup equipment, including 36 equipment and supply trailers for 30 coastal municipalities, and training local responders in their use;
- awarding a contract for inspecting, maintaining, and re-stocking equipment trailers;
- establishing risk-based priorities for GRP's, training, and equipment allocation;
- conducting two multi-agency response training exercises;
- establishing and maintaining contracts for all OSA related services;
- researching training needs and options for training tug and barge operators;
- researching options for mitigating municipal response training costs;
- researching procedures for managing damage/loss claims;
- reinforcing information exchange with other states' oil spill programs;
- enhancing coordination and cooperation with the U.S. Coast Guard (USCG) sponsored Area Planning Committees; and
- planning for future implementation activities.

Over the next two months, MassDEP will engage the OSAAC and other stakeholders in discussions on the proposals described in this Draft Three Year Plan (the Plan). The MassDEP

views this planning process as an opportunity to gather information and advice concerning the appropriate balance between the prevention, training, and other activities authorized under the Act, to ensure effective use of available funds. In the meantime, MassDEP, in consultation with the OSAAC, will proceed with planned activities initiated under the Interim Plan adopted last summer and described in this Draft Three Year Plan.

The Plan provides information about Oil Spill Act-related work already accomplished, currently in progress, and planned for the next three years, organized under four categories: Planning/Administration, Prevention, Response, and Outreach. A statement of goals and purpose is provided at the beginning of each category along with a description of completed projects/products and those in progress or yet to be initiated or completed. A list of work products or task descriptions accompanied by milestones with proposed deadlines and work assignments are provided for recently completed, ongoing, and yet to be initiated work in each category.

A main focus of MassDEP's effort to date has been to implement lessons learned from the 2003 Buzzards Bay spill and reflected in the mandates of the Oil Spill Act. This experience shows that during the first 24 to 48 hours of response to a coastal oil spill, a well-equipped and trained local response is essential to conducting important mitigation activities while Federal/State and Responsible Party resources are brought to action. This Three Year Plan describes how MassDEP plans to complete the process of providing municipalities with the basic equipment, training, and Geographic Response Plans necessary to perform the initial stages of an effective response to oil spills; provide for regular inspection and maintenance of equipment and replacement of supplies; create and test Geographic Response Plans; and conduct training activities necessary to maintain and, where possible, improve early response capability. A Risk and Equipment Inventory Analysis will soon guide decisions concerning the locations for additional GRP's and the order in which municipalities should receive equipment and training.

The Plan also addresses prevention and administrative priorities including: the improved Vessel Movement Reporting System (VMRS) now operating in Buzzard's Bay under new U.S.C.G. regulations, and plans to track and report the performance of the system; initiation of the planning process for developing a training program for tug & barge operator/crew; local spill prevention strategies have been investigated to identify where enhanced efforts and focus will lessen the risk of future oil spills and, therefore, promote the prevention of releases before they occur. Finally, the plan identifies steps for developing procedures for managing damage claims that may be filed under the Act, and for developing a program of stipends to reduce municipal costs for staff participation in oil spill response training.

I. PLANNING/ADMINISTRATION

Planning/Administration includes the organizational initiatives, planning activities/documents, and management/administrative policies and procedures necessary to effectively and efficiently administer MassDEP's responsibilities under the OSA. Activities already completed include establishing the Oil Spill Act Advisory Committee (OSAAC).

The first OSAAC Meeting was held in March 2007 and subsequent meetings were held in June and October of 2007, with a meeting planned for June 2008. Meetings of the OSAAC Training and Prevention Subcommittees have also been held and recommendations developed from those meetings are summarized in this Plan. In October 2007, MassDEP also completed and adopted an Interim Plan for implementing the Oil Spill Prevention and Response Act. The Interim Plan provided work descriptions and schedules in each category through the present time.

MassDEP has initiated a review of other states' oil spill response plans. The Department has established a policy concerning the coastal communities that will be covered under the purview of the OSA (Appendix). Other decisions, such as an appropriate long-term reserve account goal (the Act allows up to \$10MM maximum-less annual operating budget) will be deferred until long term equipment maintenance and annual training costs can be better defined. MassDEP has been and will continue investing heavily in start-up activities, including equipment trailers, GRP's, initial responder training, and an equipment inventory and tracking system through 2011. Significant equipment trailer purchases began in 2007 and 2008, and will continue through 2009 and 2011. By 2011 all coastal communities will have been provided with oil spill response equipment trailers and the program emphasis will shift to inspection, maintenance, and replacement of supplies. Most GRP's and related training should also be completed by 2011. By the end of the Three Year Plan (2011), annual expenditures for equipment and GRP development will be greatly reduced, allowing additional funds to be allocated to testing of GRP's; to other priorities and building up of the reserve account.

Tasks

A. Develop an OSA Three Year Plan. (May – October 2008)

Task to be conducted by MassDEP, with assistance from the Northeast Waste Management Officials' Association (NEWMOA)

Key Milestones-

1. Prepare Discussion Draft and Proposed Budget for internal MassDEP review.
2. Discuss and review Draft with the OSAAC.
3. Identify planning & implementation participants and their roles & responsibilities.
4. Adopt Three Year Plan.

B. Establish policies, procedures, and priorities for administering the OSA Trust Fund.
(Ongoing)

Task to be conducted by MassDEP with assistance from the Massachusetts Department of Revenue (DOR) and NEWMOA

Key Milestones-

1. Determine reserve account goal (up to \$10MM maximum – less annual operating budget). (May – October 2009)
 - survey selected Federal, State, other agencies (FEMA, SBA, etc.) to identify existing programs, coverage scopes and funds available to address damage claims associated with a large spill
 - identify proposed targets for damage claims, loans, natural resources damage restoration, and administration
 - determine proposed annual reserve account accrual rate for next 3 years. (2009-2011)
2. Develop procedures and criteria for processing damage claims. (May - October 2009)
 - identify existing procedures and methods for filing, evaluating and ranking/scoring claims used by other states
 - develop proposed OSA procedures for filing, evaluating, and ranking/scoring claims and disbursing funds for review by the OSAAC

C. Conduct a coastal oil spill risk evaluation and a public/private equipment inventory.
(May 2008 – August 2008)

Task underway by Nuka, Inc., with oversight and assistance by MassDEP

The coastal oil spill risk evaluation and public/private equipment inventory will serve as the basis for prioritizing future equipment and training deliveries and Geographic Response Plan development. The inventory will be used initially to identify regional gaps/equipment shortages and will also provide a database for tracking and managing MassDEP allocated equipment.

Key Milestones-

1. Identify major marine transportation routes and destinations
2. Identify coastal marine areas that have been the location of frequent oil spills
3. Identify coastal areas with physical, geographical or natural resource features that increase the risk of an oil spill
4. Develop risk-based ranking system that can be applied to future equipment, training, and GRP development prioritization decisions
5. Complete risk evaluation report
6. Present risk evaluation report to Oil Spill Act Advisory Committee.

7. Develop an inventory and database of current public and private oil spill response equipment and supplies.

D. Implement and administer Mass Oil Spill Act mandates, Trust Fund, and Interim Plan. (Ongoing)

Task conducted by MassDEP staff

Key Milestones-

1. Maintain the Oil Spill Act Advisory Committee to assist and advise MassDEP on OSA Implementation through regular communications and program review (See Attachment D for Advisory Committee members)
2. Resolve legal and regulatory policy issues as necessary to accomplish the goals of the Act

D. Develop a proposal for a municipal OSA training stipend. (June 2008- October 2008)

Tasks to be conducted by MassDEP with assistance from NEWMOA

Municipal fire officials have raised concerns about the cost impact on fire department budgets for firefighters and other employees to participate in MassDEP-sponsored oil spill response training exercises. MassDEP plans to investigate an approach that has been used by the Mass Department of Public Health regarding mass decontamination training for municipal responders. Through this program, municipalities are provided with an agreed annual stipend to cover a portion of their costs for participating in the training, and are left to decide how they should best use these funds.

Key Milestones-

1. Interview program managers at MassDPH and MassDFS to further define the characteristics of municipal stipend programs and the policies and procedures employed to administer them.
2. Investigate the expenses that municipalities have incurred to participate in OSA training and analyze the anticipated costs of OSA training plans for future years.
3. Engage MassDEP fiscal management officials in evaluating the timing and amount of funds that could be allocated annually to municipal stipends for training expenses.
4. Prepare Discussion Draft Proposal for Municipal Training Stipend for review by OSAAC.
5. Adopt Municipal Training Stipends.

II. PREVENTION

Prevention includes projects, systems, programs, and training needed to reduce the likelihood and severity of accidents/events that result in the release of oil to the waters of the Commonwealth. Vessel Traffic Systems (VTS) or Vessel Movement Reporting Systems (VMRS) and Physical Oceanography Real-Time Systems (P.O.R.T.S) that may prevent or mitigate the risk of future oil spills are included (as directed by the OSA), as are strategies and equipment for the reduction and elimination of frequent spills or discharges of oil at locations such as busy industrial, fishing, and recreational port areas. A proposed training program to improve the safety of tug and barge operations in the waters of the Commonwealth is also described in this section.

MassDEP has determined that the VMRS in Buzzard's Bay and the Cape Cod Canal, as presently implemented, meets the requirements of the OSA. However, the Department will continue to work with the Army Corps. of Engineers and the U.S.C.G. to determine if equipment improvements or other measures within the scope of the OSA are advisable.

Tasks

A. Vessel Traffic System (Sept 2007 – June 2009)

Tasks to be conducted by OSAAC Spill Prevention Sub-Committee with contractor assistance

The USCG has already promulgated new regulations applicable to Buzzard's Bay and the approaches to the Cape Cod Canal that are implemented by the USCG and the U.S. Army Corps of Engineers (ACOE). This task will include review and evaluation of operating experience with the new regulations and the VMRS in Buzzards Bay and the Cape Cod Canal. MassDEP is currently in discussions with USCG and ACOE to explore MassDEP funding the purchase and installation of radio, radar and microwave equipment in support of the VMRS currently operating in Buzzards Bay. (add Key Milestones)

.Key Milestones-

1. The OSAAC Prevention Sub-Committee will evaluate results of USCG/ACOE and regulation changes, system enhancements, timing, and navigational needs for vessel traffic in Buzzards Bay and Cape Cod Canal. Report findings and recommendations to the OSAAC. (June 2008- December 2008- Ongoing)
2. MassDEP will examine the findings of the coastal oil spill risk evaluation report in consultation with the Prevention Subcommittee to determine if additional measures are indicated at locations in addition to Buzzards Bay. (January 2009 – June 2009)

B. Physical Oceanography Real-Time System (P.O.R.T.S) (July 2010)

Task to be conducted by OSAAC Spill Prevention Subcommittee

An appropriation of federal funds was requested by Congressman Delahunt to provide for a weather bouy in Nantucket Sound to improve the safety of navigation.

Key Milestones-

1. Identify status of current and planned systems under consideration by USCG/NOAA and others for Buzzards Bay. Determine status of Report findings to OSAAC. (July 2010)

C. Reduce Chronic Oil Spills in Massachusetts Harbors and Ports. (October 2009-October 2010)

Tasks to be conducted by MassDEP with assistance from NEWMOA

MassDEP plans to identify the harbor and port locations within Massachusetts where frequent small-quantity spills and discharges of bilge oil or fuel occur, and develop and implement strategies to reduce or eliminate these events. The University of Massachusetts-Dartmouth has received funds from the University of New Hampshire and NOAA to evaluate equipment that will monitor hydrocarbon levels in water in real time at trouble spots, such as New Bedford Harbor. MassDEP, in consultation with the Prevention Sub-Committee, will track the UMass Dartmouth efforts and also investigate additional strategies to promote recycling or treatment of bilge water/oil (i.e., installation of oil water separators) at problematic locations such as New Bedford, Gloucester, and others.

Key Milestones-

1. Meet with MassDEP, CZM, USCG and other parties (Harbor Development Commissions) to determine the locations where significant numbers of small scale spills and discharges occur. Estimate the quantity of oil and fuel that is discharged into the marine environment at these locations and identify the sources. Identify and evaluate actual and potential impacts of these spills.
2. Identify and evaluate, with the appropriate federal, state and municipal officials previous efforts to identify, reduce, and eliminate the spills/discharges.
3. Develop a consensus approach or strategy for reducing or eliminating the spills/discharges.
4. Develop detailed designs and an implementation schedule for preventing and mitigating the impact of small oil spills/discharges.
5. Evaluate the potential to revitalize efforts to establish a bilge oil/water separator facility in New Bedford Harbor.

D. Develop a Training Program for Tug and Barge Operators. (January 2008-December 2008)

Tasks to be conducted by MassDEP, with assistance from the Prevention Sub-Committee & NEWMOA

Professional marine pilots on the OSAAC have urged the development of a training program for tug-barge operators to improve their navigational and operating skills, and

safety/emergency practices, in order to reduce the likelihood of groundings, collisions or other accidents that cause oil spills. Initially, such training would emphasize tug-barge operations in Buzzards Bay and the Cape Cod Canal, but the need for training in other localities would also be investigated.

MassDEP and NEWMOA representatives have visited training facilities and interviewed potential trainers. Meetings have been held with the Training Subcommittee to develop an initial outline of training needs. Next steps include: development of a detailed training agenda and an request for proposals (RFP); and consultation with various stakeholders to identify a program that would enhance this prevention component and facilitate participation by tug and barge operators/crews.

Key Milestones-

1. Engage tug and barge training experts to define training goals and objectives and to draft a detailed training agenda and prepare an RFP for training services
2. Meet with tug and barge operations stakeholders (i.e., management, operators, unions, insurance underwriters, oil receivers and shippers) to identify stakeholder interests and concerns
3. Develop and advertise an RFP for a training program
4. Evaluate bids and stakeholder responses and prepare training program description and outreach materials
5. Prepare a discussion draft of the training program and circulate to stakeholders and OSAAC
6. Award bids and implement training program.

III. RESPONSE

Response includes the projects/equipment and supplies, plans (i.e. Geographic Response Plans (GRPs), equipment tracking systems and maintenance programs, and training (i.e., introductory training for the use of equipment, training to test and use GRPs, and comprehensive oil spill response training), that will enable local and state responders to effectively and efficiently contain and remove oil spills.

GRPs are a valuable planning and response tool to aid in the effective deployment of equipment to protect valuable coastal assets. Decisions concerning the locations for additional GRP's and the municipalities that should receive equipment and training will be guided by the Oil Spill Risk Evaluation and Equipment Inventory Analysis (Task I-C) that should be available beginning in August, 2008. As of May 2008 GRP's have been prepared for Buzzard's Bay and Cape Cod and the Islands.

To-date MassDEP has provided 36 equipment trailers to 30 communities, accompanied by introductory training in the use and care of the equipment. An equipment inventory and tracking system has been developed and provisions have been made for inspecting, maintaining and re-supplying equipment trailers. A multi-agency spill response training exercise and test of the Wild Harbor GRP, that included 60 participants, was held in April 2008.

A. Equipment Procurement Program (2007-October 2011)

Tasks to be conducted by contractors with MassDEP assistance and oversight

As of May 2008 MassDEP had provided 36 equipment trailers to 30 communities. MassDEP plans to continue expanding this network to a total of approximately 100 trailers.

Key Milestones-

1. Procure and deliver oil spill response trailers to 12 North Shore communities (June – Sept 2008)
2. Develop oil spill trailer and equipment purchase and deployment schedule for the next three years based on oil spill risk evaluation and equipment inventory (October – November 2008)
3. Procure and deliver oil spill response trailers to remaining coastal communities based on priorities established by the risk and equipment inventory evaluation (2009, 2010, 2011)

B. Equipment Inventory Tracking and Management Program.

Task to be conducted by MassDEP as follow up to coastal risk evaluation and equipment inventory developed in Task I. C. 1-7 (August 2008)

Key Milestones-

1. Develop and maintain an inventory of MassDEP and other (public and private) oil spill response equipment resources available to protect coastal areas.
2. Update list/maps annually of available MassDEP oil spill equipment
3. Provide access to list/maps of MassDEP equipment available on Training and Equipment Web site.

C. Equipment Inspection, Maintenance, and Re-Supply

Tasks to be conducted by a contractor with oversight by MassDEP

MassDEP has developed a spill trailer and equipment maintenance and inspection procedures checklist and re-supply procedures. An RFP for oil spill equipment inspection, repair and re-supply services has been advertised.

1. Award contract for oil spill equipment inspection, repair and re-supply services (July 2008)
2. Present to OSAAC & Incorporate into Strategic Plan

D. Mutual Aid Protocol.

Task to be conducted by MassDEP, with assistance from NEWMOA

The Rhode Island Department of Environmental Management has developed a proposal for a mutual aid protocol for sharing equipment and other resources.

Key Milestones-

Determine the feasibility of an Interstate Response Agreement/Mutual Aid Agreement for sharing of equipment and supplies by municipalities and other Northeast states (2009)

2. Analyze the data gathered from the Coastal Oil Spill Risk Evaluation Report and Equipment Inventory to identify if regional or statewide oil spill response equipment gaps exist. (2010)

E. Response Training

Tasks to be conducted by MassDEP assisted by various contractors

MassDEP is providing initial equipment use and deployment training for local responders along with the delivery of spill equipment trailers and plans to continue this support. A multi-agency spill response training exercise, and test of the Wild Harbor GRP, that included 60 participants was held in April 2008.

Consultation and joint planning with the USCG Area Committees (Sector Boston & SENE) is needed to ensure the best use of resources and identify goals and objectives necessary for effective and successful training. MassDEP and the Training Sub-Committee will review training plans annually to take advantage of the multi-agency planning and program development work that is currently in progress.

In addition to large multi-agency training exercises, MassDEP plans to conduct localized training events in order to test the adequacy and effectiveness of individual GRP's, while training responders to use their equipment to implement them. As GRP's are completed for coastal communities there will be an ongoing need to test each GRP.

MassDEP has established a goal to test 5-10 GRP strategies for coastal municipalities each year. This will require planning and coordination by training contractors and municipal officials to ensure that all of the equipment and manpower needs for a successful GRP test and training exercise are anticipated and met.

Key Milestones-

1. Produce and distribute a response and training CD and post a website to provide ready access to familiarization with equipment and deployment principles for local responders. (January – July 2008)
Task being completed by Moran Environmental and Horsley-Whitten with oversight by MassDEP (<http://www.horsleywitten.com/depoilspill/index.html>)
2. Conduct periodic multi-agency spill response training exercises
3. Develop an inventory of existing first responder training available, including a description of the training category/type/dates/costs for review by OSAAC (February 2009)
4. Poll stakeholders to identify other general training priorities and needs (May 2009)
5. Develop a general training plan and budget for inclusion in the Three Year Plan
6. Develop a detailed annual plan each year

F. Geographic Response Plans (GRP's). (February 2007 – December 2008)

Task conducted by NUKA, with assistance and oversight by MassDEP , with additional regional advice through 2010.

As of May 2008 GRP's have been prepared for Buzzard's Bay and Cape Cod and the Islands. During the remainder of 2008 and in 2009 and 2010, GRP's will be completed in accordance with the risk ranking system for: the South Coast (the Buzzard's Bay portion is already done); North Shore; Boston Harbor; and the South Shore

Key Milestones-

1. Update and reformat the Buzzard's Bay Geographic Response Plan originally scheduled for completion in January 2008 will be completed in June 2008
2. Develop prioritized schedule for preparing GRP's for other Massachusetts coastal areas based on oil spill risk assessment including: the South Coast (excluding Buzzard's Bay); North Shore; Boston Harbor; and the South Shore. (November 2007 – December, 2008)
3. Complete outreach and information gathering
4. Modify and reformat strategies (ongoing at present)
5. Present to OSAAC , Area Committee, and distribute (June 2008)

. G. Wildlife Rehabilitation (June 2009-October 2010)

Task conducted by contractor with oversight from MassDEP and MA Division of Fish and Wildlife (MA DFW) staff.

MassDEP plans to develop strategies and methods to improve the Commonwealth's ability to respond to and care for oiled wildlife.

Key Milestones-

1. Identify possible locations throughout the coastal areas of the state where facilities for the care of wildlife impacted by a spill either already exist or can be rapidly set up
2. Identify organizations with expertise in the rescue and care of bird and other wildlife during oil spills
3. Identify organizations in various regions of the state that are able to mobilize significant numbers of volunteers for bird and wildlife rescue efforts
4. Develop and maintain a handbook that will help guide the rapid set up of care facilities and the process of organizing and staffing the facilities and related rescue efforts

IV. OUTREACH

MassDEP appreciates the importance of a vigorous program to ensure consistently high quality communications with partners, stakeholders, and the general public; and a transparent, participatory process for administering the OSA. The Department is already engaged in most of the steps identified below. (Ongoing)

Tasks

- A. Establish and maintain effective communications with Federal, state and local partners, key stakeholder groups, the regulated community and interested parties.**
Task to be conducted by MassDEP with assistance from a contractor

Key Milestones-

1. Meet with harbormasters and fire departments
2. Present OSA goals, objectives, and plans at fire and harbormaster conferences
3. Participate in Sector Boston and Sector S. E. New England Port Safety & Security forums and Port Area Committee meetings (Ongoing – quarterly)
4. Complete and maintain oil spill web page
5. Hold regular meetings/other communications with nearby states' oil spill response programs

